

TAB 9

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

_____ x
THE CITY OF HUNTINGTON, : Civil Action
v. : No. 3:17-cv-01362
AMERISOURCEBERGEN DRUG :
CORPORATION, et al., :
Defendants. :
_____ x
CABELL COUNTY COMMISSION, : Civil Action
v. : No. 3:17-cv-01665
AMERISOURCEBERGEN DRUG :
CORPORATION, et al., :
Defendants. :
_____ x

BENCH TRIAL - VOLUME 36
BEFORE THE HONORABLE DAVID A. FABER, SENIOR STATUS JUDGE
UNITED STATES DISTRICT COURT
IN CHARLESTON, WEST VIRGINIA

JULY 8, 2021

1 marketplace.

2 We think of a separate thing called supply, which is on
3 the -- forces that work on the supplier side of the market
4 and demand and the quantity you see is a function of both
5 the supply and demand.

6 It's not a measure of supply per se. It's a measure of
7 the quantity which is a function of both. So you want to
8 keep that in your mind when you talk about like the level of
9 output or the level of consumption. It really is an
10 outcome.

11 And, for example, you can't say, well, geez, we had
12 more output and, therefore, there was an increase in supply.
13 Economists wouldn't think about it that way.

14 You know, people consume more gasoline. It could be
15 because we discover a lot of oil and oil prices go down and
16 people buy more gasoline because it's cheaper, but it also
17 could be a bunch of people move to the suburbs and they get
18 richer and they demand more gasoline and the quantity of
19 gasoline goes up for demand forces. And just the fact that
20 the quantity went up doesn't tell you it was something going
21 on on the supply side.

22 **Q.** And so, in relation in particular to the distribution
23 of prescription opioids and the sale of prescription
24 opioids, is there a particular driver of demand that you've
25 identified?

1 **A.** Yeah. As I said a bit ago, I think prescriptions -- if
2 you wanted to think about market like this and what's going
3 to determine the quantity, it's going to be the prescribing
4 behavior.

5 **Q.** And why is that?

6 **A.** Well, because in order to sell a prescription,
7 legitimate prescription, or a legal prescription in this
8 marketplace, you have to have a prescription.

9 This is not like you go down to the grocery store and
10 say, you know, oh, I see there's a stack of doughnuts. I'll
11 buy some doughnuts. That's not how this works.

12 You need a prescription to buy it and my understanding
13 of the evidence in this case is that the opioids that were
14 distributed were distributed overwhelmingly for -- through
15 prescriptions. So, it's prescriptions would be the driver.

16 **Q.** And you had mentioned before, Dr. Murphy, that the
17 responsibility for prescriptions lies where?

18 **A.** Well, if you think about who influences the
19 prescriptions primarily, at the point of the spear, kind of
20 like where that actually happens, it's going to be the
21 doctors and the patients, right?

22 Ultimately, the doctor is going to decide to write a
23 prescription and the patient plays a role in that and, you
24 know, then there's a question of whether patient fills that
25 or not. That's also a patient level. So, it's doctor and